

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

BELINDA WALLS,	:	Case No. 2:12-cv-00598
	:	
Plaintiff,	:	Judge Watson
	:	
	:	Magistrate Judge Kemp
v.	:	
	:	
	:	
PORTFOLIO RECOVERY ASSOCIATES,	:	
LLC,	:	<b>MOTION TO VACATE SETTLEMENT</b>
	:	<b>WEEK MEDIATION</b>
Defendant.	:	

---

Defendant Portfolio Recovery Associates, LLC (“Portfolio”) moves the Court for an order vacating the mediation in this matter, which is currently scheduled to take place during this Court’s upcoming Settlement Week. Portfolio plans to seek summary judgment in this action. As such, mediating this case would not be productive for either of the parties.

Therefore, for the reasons more fully detailed in the attached Memorandum in Support, Portfolio moves the Court for an order vacating the upcoming mediation in this matter. In accordance with Eastern Division General Order No. 01-2, Portfolio’s attorney is serving a copy of this Motion on a representative of his client.

Respectfully submitted,

/s/ Ryan S. Lett

OF COUNSEL:

FROST BROWN TODD LLC  
3300 Great American Tower  
301 East Fourth Street  
Cincinnati, OH 45202  
(513) 651-6800

---

Ryan S. Lett (0088381)  
3300 Great American Tower  
301 East Fourth Street  
Cincinnati, Ohio 45202  
(513) 651-6118 (direct dial)  
(513) 651-6981 (facsimile)  
rlett@fbtlaw.com (e-mail)  
*Counsel for Defendant  
Portfolio Recovery Associates, LLC*

**Memorandum in Support**

This case is currently scheduled to be mediated during this Court's upcoming Settlement Week on March 14, 2013, at 9:00 a.m.<sup>1</sup> The Court's Notice of Settlement Conference (the "Mediation Notice") states that, if either party desires to cancel the mediation, it must do so by today, March 6, 2013.<sup>2</sup> It further states that, if both parties agree the mediation should not go forward, they can initiate a joint teleconference with the Magistrate.<sup>3</sup> But if both sides do not agree, the party seeking cancellation must file a motion with this Court.<sup>4</sup>

Here, Portfolio seeks to cancel the mediation because it plans to file a dispositive motion. Portfolio deposed the Plaintiff last week. After the deposition, it is evident that no material issues of fact remain with respect to any of Plaintiff's claims. Because this has led Portfolio to seek summary judgment, it is virtually impossible that mediating this case at this juncture would be in any way productive.

After deciding to seek cancellation of the mediation, in accordance with this Court's Notice, Portfolio's counsel reached out to opposing counsel to see whether Plaintiff would agree to its cancellation. Even though it has made multiple efforts over the past few days, Portfolio's counsel has been unable to reach Plaintiff's counsel. As a result, Portfolio is unable to inform the Court whether Plaintiff does or does not agree to cancellation of the upcoming mediation.

Despite this uncertainty, Portfolio files this Motion in accordance with March 6, 2013 deadline stated in the Court's Mediation Notice.<sup>5</sup> In brief, Portfolio plans to file a dispositive motion in this case; thus, it is extremely unlikely that mediation would be productive at this stage

---

<sup>1</sup> See Notice of Settlement Conference (Doc. No. 16).

<sup>2</sup> See *id.*

<sup>3</sup> See *id.*

<sup>4</sup> See *id.*

<sup>5</sup> See *id.*

in this case. The Court should thus grant this Motion and vacate the mediation currently scheduled in this matter.

Respectfully submitted,

/s/ Ryan S. Lett

OF COUNSEL:

FROST BROWN TODD LLC  
3300 Great American Tower  
301 East Fourth Street  
Cincinnati, OH 45202  
(513) 651-6800

---

Ryan S. Lett (0088381)  
3300 Great American Tower  
301 East Fourth Street  
Cincinnati, Ohio 45202  
(513) 651-6118 (direct dial)  
(513) 651-6981 (facsimile)  
rlett@fbtlaw.com (e-mail)  
*Counsel for Defendant*  
*Portfolio Recovery Associates, LLC*

**CERTIFICATE OF SERVICE**

This is to certify that on March 6, 2013, a copy of the foregoing was filed using the Court's CM/ECF system and will be served on all counsel of record through such system, which includes:

J. Daniel Scharville, Esq.  
6200 Rockside Woods Blvd., Suite 215  
Independence, Ohio 44131

Further, in accordance with Eastern Division General Order 01-2 of this Court, this also certifies that, on March 6, 2013, a copy of the foregoing was served via electronic mail and regular U.S. mail, upon the following:

Portfolio Recovery Associates, LLC  
c/o Steven R. Zahn, Esq.  
Litigation Counsel  
140 Corporate Boulevard  
Norfolk, VA 23502

/s/ Ryan S. Lett  
Ryan S. Lett (Ohio No. 0088381)